

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RACHELLE CRAIG,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2:08-cv-02334-STA-egb
)	
EZPAWN TENNESSEE, INC., <i>et al.</i>,)	
)	
Defendants.)	

REPORT AND RECOMMENDATIONS ON RULE 37 SANCTIONS

On October 29, 2009, Defendants EZPAWN Tennessee, Inc. et al filed a Motion to Compel Plaintiff's Rule 26 Initial Disclosures (D.E. 39). The Court referred Defendants' Motion to Compel (D.E. 40) to the Magistrate Judge on October 30, 2009. On November 13, 2009, the Magistrate Judge granted Defendants' Motion to Compel (D.E. 46) during a telephonic conference. In the conference, Defense counsel was ordered to provide of a copy of their charges of filing (D.E. 39) for consideration of sanctions pursuant to Fed. R. Civ. P. 37. Defense counsel filed their list of expenses along with the Affidavit of Bruce Smith on January 18, 2010 (D.E. 68). This matter of sanctions pursuant to Fed. R. Civ. P. 37 was thereafter referred to the Magistrate Judge.

Pursuant to Rule 37 of the Federal Rules of Civil Procedure, if a party fails to submit Initial Disclosures, any other party may move to compel the production of that party's Initial Disclosures and request appropriate sanctions. Fed. R. Civ. P. 37(a)(3)(A).

If the moving party's Motion to Compel is granted, the Court may order the party whose conduct necessitated the motion to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. Fed. R. Civ. P. 37(a)(5)(A). Here, the expenses submitted total \$1,368.54. Defendants submit the Affidavit of Bruce M. Smith, one of the attorneys in this action, as well as an itemization of the costs associated with drafting, filing and serving their Motion to Compel and participating in the related hearing. The Magistrate Judge finds that the time spent, as well as the hourly rates submitted, are fair and reasonable and recommends that sanctions totaling \$1,368.54 be assessed against Plaintiff.

Respectfully submitted on this 27th day of January, 2010.

s/Edward G. Bryant
EDWARD G. BRYANT
U.S. MAGISTRATE JUDGE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.